HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2) (b)

Description of the case

W.P. No. 120 (S/S)/2000
Radha Charan
Vs.
Superintendent Engineer

Approved for reporting

~~Not approved for reporting~~

Date of decision 09.06.2004

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 120 (S/S) of 2000

Radha Charan
S/o Chatra Pal
R/o House No. 21 Sati
Mohalla Ram, Bhawan, Roorkee
Hariwar. .....Petitioner

VS

Superintendent Engineer (Adhikshan
Abhiyanta) Irrigation Workshop Region-I
67 A Cantt. Kanpur. .....Respondents

Counsel for the petitioner Sh. V.K. Bisht
Standing Counsel for the respondents.

Dated:- 9-6-2004

Hon'ble Rajesh Tandon, J.

Heard Sh. V.K. Bisht learned counsel for the petitioner and Standing counsel for the respondents.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus directing the respondents to give Fitter Trade to the petitioner from 29-9-1999 as it was given to the other employees and their trades were changed. Further mandamus has been sought directing the promotion of the petitioner in the pay scale of Rs. 2750 to 4400 as a trade promotion from Baildar to fitter. Petitioner has also prayed for a writ of mandamus directing the respondents to consider the representation of the petitioner regarding the change of his trade from Beldar to fitter and for promotion in the pay scale of Rs. 2750-4400/-. At

the time of admission of the writ petition following order was passed:-

"Notices has been accepted by the learned C.S.C. who prays for is allowed six weeks time to file counter affidavit.

List thereafter.

Meanwhile it is provided that if any person junior to petitioner has been promoted, the case of the petitioner for promotion shall also be considered within one month from the date of production of a certified copy of the order."

Brief facts giving rise to the present writ petition are that the petitioner was initially appointed on 18-11-80 as Baildar in the sthapan Khand Okhla New Delhi and from 1-1-1983, the Executive Engineer of Sthapan Khand Okhla subsequently the Sthapan Khand Okhla merged in the Workshop Roorkee in the year 1985 and thus all the Sthapan Khand New Delhi became, the employees of Workshop, Roorkee from their initial date of appointment and therefore all the benefits, increments were subsequently given on the basis of their initial date of appointment.

Petitioner has submitted that on 15-8-95 the petitioner was appointed on the post of skilled Baildar in the pay scale of Rs 775, which was revised to Rs. 2610-3540/-.

On 23-4-98 the petitioner has filed an application for the change of trade on the ground that he has worked for Baildar and therefore his trade may be changed as Fitter.

On 24-4-98 the recommendation has been made to that affects as will appear from the order pass in this connation. The same is quoted below:-

"SHRI RADHA CHARAN KA PRATHANA PATRA MOOL ROOP ME EES SANSTUTI PRESHIT HAI KE ENKE SEVA AVADHI EEV SUSHAL KARYA KO DEKHTE HUE ENKA PADNAAM BAILDAR SE PAREVRTIT KAR FITTER KARNE KE ANUMATI PRADAAN KARNE KE KRIPA KARE"

The petitioner has submitted on 29-9-1999, the list was published for the change of their trade but he name of the petitioner did not find its place in the list and he further found that several other employees who are much junior to the petitioner are mentioned in the list and their request for change of the trade have been accepted.

Petitioner has made the representation of the authorities on 29-9-1999, 20-12-1999 and 8-5-2000.

Petitioner has also brought to the notice of the authorities that Sh. Chet Pal token no. 832, Vinod Kumar token no.949, Naseem token no.529 Mustaq token no.83, Hu Raj token no.969, Anis token no.727 have been give promotion as well as change of their trade and all these employees are very much Junior to the petitioner.

The petitioner has also brought to the notice of the authorities that the aforesaid persons were promoted in the year 1996, where the petitioner has got his first promotion in the year 1994. the respondent authorities in reply of the representation of the petitioner dt. 8-5-2000 issued a letter dt. 16.6.2000 refuse to consider the demand of the petitioner.

The order is very cryptic and it does not assign any reason. It is well- established principle of law that recording of reasons is the settled principle of service jurisprudence. It has

been held in State of West Bengal Vs. Atul Krishan Shaw AIR 1990 Supermen Court 2205 to the following effect:-

"A right to reason is, therefore, an indispensable part of sound system of judicial review. Reasoned decision is not only for the purpose of showing that the citizen is receiving justice, but also a valid discipline for the Tribunal itself. Therefore, statement of reasons is one of the essentials of justice."

Apart form the rules of charge of Trade, parity in the order dt. 16-06-2000 and 24-4-1998, the recommendation has also not been considered.

In view of the aforesaid, order dt. 16-6-2000 Annexue-11 to the writ petition is quashed and the respondents are directed to pass a fresh order after considering the recommendation Annexure-2 dt. 24-4-1998 along with the rules.

Subject to the aforesaid observations, the writ petition is allowed. There will be no order as to costs.

(RJESH TANDON, J.)

Dt:- 9-6-2004

M.K.